IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.2293 OF 2006

Nandu Bhika Mahajan ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri Abhaykumar Apte, adv. for the Applicant.
Shri Milind Desai, adv. for Respondent Nos.2 to 4.

CORAM: J.H.BHATIA, J.
DATE : 25th January, 2007.

P.C.:

1. Heard Mr.Apte, the learned counsel for the applicant, Mr.Desai, the learned counsel for respondent nos.2 to 4 and Mr.Shinde, the learned APP for the State.

2. The applicant before this Court is accused no.2 in Crime No.18 of 2006 registered by Chaturshringi police station. It was alleged that he had induced number of persons promising them to give employment in M.S.R.T.C. and had recovered substantial amounts from them . He filed criminal bail application no.944 of 2006 which came to be granted by the learned Vth Additional Sessions Judge by the order dated 6th May, 2006. While granting the bail, the learned Additional Sessions Judge observed as follows:

> ".....In the cases of the present type, the trial lingers for years together. In the present set of facts and circumstances, and the manner in which the victims, especially, Atmaram, Arun and Bajirao were duped, some sort of compensation payable to them must be ordered to be deposited by applicant-accused no.2 so that at the end of trial and in the event of conviction, that amount could be paid to the victims. Advocate for applicant agrees that the applicant will deposit amount of Rs.75,000/- under protest without prejudice to his right to claim the same at the end of trial in case if he is acquitted."

This indicate that the amount of Rs.75,000/- to be deposited by the applicant could be disbursed to respondent nos.2 to 4, in case the trial ends in conviction and if the accused/applicant is acquitted, he will be entitled to get the said amount back. However, in the operative order, the learned Additional Sessions Judge directed that the amount so deposited could be payable to the victims Atmaram, Arun and Bajirao equally on their furnishing security to the satisfaction of the trial Court. It indicated that the amount would be disbursed to the respondent nos.2 to 4, the alleged victims immediately. According the accused/applicant, the order for disbursement is inconsistent with the observations made in paragraph 7 as referred above. It appears that the applicant had filed application for stay before the same Court and successor of the learned Additional Sessions Judge, who had passed order, also found that there was inconsistency but he granted stay

to the said order for one month so that the applicant/accused could approach this Court. By this application, the applicant seeks to quash the order directing the disbursement of amount to respondent nos.2 to 4 immediately on furnishing security.

3. After some discussion at bar, the learned counsel for the parties conceded that there is inconsistency in the observations made in paragraph 7 of the order dated 6th May, 2006 and the operative order. Whether respondent no.2 to 4 had actually made payment to the present applicant and whether the present applicant/accused had cheated them will be established after the trial. Therefore, it will be reasonable to give direction to the applicant to deposit the amount but there will be no justification to release the said amount in favour of the respondent nos.2 to 4 immediately. At the same time, instead of keeping amount idle for a number of years till the end of the trial, it would be useful if the amount is deposited with a nationalised bank for a fixed period so that the successor party may receive the amount with interest.

4. The learned counsel for the parties agree to this. With the consent of the parties, the impugned order directing to distribute the amount to respondent

nos.2 to 4 on furnishing security stands quashed. However, the learned J.M.F.C., Pimpri shall keep the said amount of Rs.75,000/- in fixed deposit with some nationalised bank for a period of 2 years in the name of the Court and if the trial is not concluded till then, the period of fixed deposit may be extended from time to time. On conclusion of trial, amount shall be paid to respondent nos.2 to 4 or to the applicant/accused as may be directed in the final judgment on the basis of merits of the case.

5. Application stands disposed off with the above directions.

(J.H.Bhatia,J.)